IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO.26 OF 2007
IN
SUIT NO.631 OF 2003

Mrs.S.H. Kapadia ....Petitioner
V/s.
Ashok Kumar Dwivedi & Ors. ....Respondents
And
Court Receiver, High Court, Bombay ....Custodia Legis

WITH

REVIEW PETITION NO.27 OF 2007
IN
SUIT NO.631 OF 2003

Mr.W.A.H. Kapadia ....Petitioner
V/s.
Ashok Kumar Dwivedi & Ors. ....Respondents
And
Court Receiver, High Court, Bombay ....Custodia Legis

Mr.P.G. Lad i/b Ms.Nirmala Bhosale for the Petitioners.

Mr.Sanjeev Sawant for Respondent No.18.

Mr.Kezer Kharawala i/b R.K. Associates for Respondent Nos.19 to 24 (original Defendant Nos.5 to 10.

Mr.R.D. Suvarna for the Purchaser.

CORAM : S.J. VAZIFDAR, J.
DATED : 21ST AUGUST, 2007.

P.C. :

1. Rule. Rule returnable and heard forthwith.

2. The Review Petitions are filed mala-fide. When the order sought to be reviewed was passed, the Plaintiff expressly represented that none of the parties had claimed any right inter-alia in respect of flat Nos.001 and 402. It is pertinent to note that Plaintiff no.24 is the husband of the Petitioner in Review Petition No.26 of 2007 and the father of the Petitioner in Review Petition No. 27 of 2007. The Petitioners in Review Petition Nos.26 of 2007 and 27 of 2007 claim to have an interest in flat Nos.402 and 001 respectively. It is important to note that Plaintiff No.24 has in fact filed both the Petitions as the Constituted Attorney of the Petitioners.

3. The only ground urged before me was that they did not appear when the order dated 20.7.2007 was passed despite the fact that by an order dated 16.10.2006 they had been ordered to be impleaded in the suit.

4. At first blush, the argument does not appear to be correct. It is however quite clear that both the Petitioners were fully aware of the hearing and the order being passed on 20.7.2007, which is sought to be reviewed. There is no dispute that Plaintiff No.24 had no objection to the order. It is not the

case of either of the Petitioners that there is any animosity between them and Plaintiff No.24. As stated above Plaintiff No.24 has filed both the Petitions as the Constituted Attorney of the Petitioners.

5. Even on merits there is nothing to be said in favour of the Review Petitioners. They admittedly had knowledge of the refusal of their rights to the alleged agreement at least when the suits were filed in the year 2003.

6. Mr.Lad fairly admitted that to date the Petitioners have not even filed any proceedings for enforcement of their alleged rights. Prima-facie their rights are barred by limitation today.

7. In the circumstances, both the Review Petitions are dismissed.